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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2012-60**

12 **ALLISON NICOLE HEINRICHS aka**
13 **ALLISON NICOLE HENRICHS**
14 1509 Eucalyptus Hill Rd.
Santa Barbara, CA 93103

ACCUSATION

15 **Registered Nurse License No. 533725**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about July 11, 1997, the Board of Registered Nursing issued Registered Nurse
23 License Number 533725 to Allison Nicole Heinrichs, aka Allison Nicole Henrichs
24 ("Respondent"). The Registered Nurse license was in full force and effect at all times relevant to
25 the charges brought herein and will expire on April 30, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

STATUTORY PROVISIONS

5. Section 118, subdivision (b) of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, or reinstated.

6. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 492 states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

"This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division."

1 8. Section 2761 of the Code provides, in pertinent part:

2 "The board may take disciplinary action against a certified or licensed nurse or deny an
3 application for a certificate or license for any of the following:

4 “(a) Unprofessional Conduct, . . .

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6 “(f) Conviction of a felony or of any offense substantially related to the
7 qualifications, functions, and duties of a registered nurse, in which event the record of the
8 conviction shall be conclusive evidence thereof. . . .”

9 9. Section 2762 of the Code provides, in pertinent part:

10 “In addition to other acts constituting unprofessional conduct within the
11 meaning of this chapter it is unprofessional conduct for a person licensed under
12 this chapter to do any of the following:

13 (a) Obtain or possess in violation of law, or prescribe, or except as directed by
14 a licensed physician and surgeon, dentist, or podiatrist administer to himself or
15 herself, or furnish or administer to another, any controlled substance as defined in
16 Division 10 (commencing with Section 11000) of the Health and Safety Code or
17 any dangerous drug or dangerous device as defined in Section 4022.

18 (b) Use any controlled substance as defined in Division 10 (commencing
19 with Section 11000) of the Health and Safety Code, or any dangerous drug or
20 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent
21 or in a manner dangerous or injurious to himself or herself, any other person, or
22 the public or to the extent that such use impairs his or her ability to conduct with
23 safety to the public the practice authorized by his or her license...”

24 10. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
25 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
26 licensee or to render a decision imposing discipline on the license.

27 11. Section 4022 of the Code provides that:

28 ““Dangerous drug” or “dangerous device” means any drug or device unsafe
for self-use in humans or animals, and includes the following:

 (a) Any drug that bears the legend: “Caution: federal law prohibits dispensing
without prescription,” “Rx only,” or words of similar import.

 (b) Any device that bears the statement: “Caution: federal law restricts this
device to sale by or on the order of a _____,” “Rx only,” or words of similar

1 import, the blank to be filled in with the designation of the practitioner licensed to
2 use or order use of the device.

3 (c) Any other drug or device that by federal or state law can be lawfully
4 dispensed only on prescription or furnished pursuant to Section 4006.”

5 REGULATORY PROVISIONS

6 12. California Code of Regulations, title 16, section 1444 states, in pertinent part:

7 “A conviction or act shall be considered to be substantially related to the qualifications,
8 functions or duties of a registered nurse if to a substantial degree it evidences the present or
9 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
10 safety, or welfare. . . .”

11 COST RECOVERY

12 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
13 administrative law judge to direct a licentiate found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case.

16 CONTROLLED SUBSTANCE/DANGEROUS DRUG

17 14. **Cocaine**, and any cocaine base, is a narcotic drug according to Health and Safety
18 Code section 11019(e). It is a Schedule I controlled substance, as designated in Health and Safety
19 Code section 11054(f)(1), and a Schedule II controlled substance, as designated in Health and
20 Safety Code section 11055(b)(6). It is categorized as a dangerous drug according to Business and
21 Professions Code section 4022.

22 FIRST CAUSE FOR DISCIPLINE

23 (Conviction of Substantially Related Crime)

24 15. Respondent is subject to disciplinary action under section 490 and section 2761,
25 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that
26 on or about October 21, 2010, Respondent was convicted of a crime substantially related to the
27 qualifications, functions, and duties of a registered nurse, as follows:

28 a. On or about October 21, 2010, after pleading nolo contendere, Respondent was
convicted of one misdemeanor count of violating Health and Safety Code section 11550(a) [use

1 of a controlled substance (cocaine)], in a criminal proceeding in the Superior Court of California
2 County of Santa Barbara (case no. 1336312). The circumstances surrounding that conviction are
3 that on or about September 16, 2010, police responded to a domestic disturbance call at
4 Respondent's residence where Respondent claimed to have been drugged by her boyfriend.
5 Respondent was taken to a hospital where she was questioned by an officer with the Santa
6 Barbara Police Department regarding the incident. After admitting to the officer that she had
7 consumed cocaine between twelve and fifteen times over the course of the previous three days,
8 Respondent was cited for violating Health and Safety Code section 11550(a).

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Unlawful Possession of a Controlled Substance)**

11 16. Respondent is subject to disciplinary action under Code section 2762, subdivision
12 (a) and (b), in that Respondent unlawfully possessed and used a controlled substance, to wit,
13 cocaine. The conduct is more particularly described in paragraph 15, subparagraph (a), inclusive,
14 above, and herein incorporated by reference.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

17 17. Respondent is subject to disciplinary action under Code section 2761, subdivisions
18 (a), for unprofessional conduct. The unprofessional conduct is more particularly described in
19 paragraph 15, subparagraph (a), inclusive, above, and herein incorporated by reference.

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number 533725, issued to Allison
24 Nicole Heinrichs, aka Allison Nicole Heinrichs;

25 2. Ordering Allison Nicole Heinrichs, aka Allison Nicole Heinrichs to pay the Board of
26 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
27 pursuant to Business and Professions Code section 125.3; and,

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3. Taking such other and further action as deemed necessary and proper.

DATED: July 28, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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